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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,029

07/27/2005

Francis Xavier Heads

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EXAMINER

JACKSON, ANDRE L

ART UNIT

PAPER NUMBER

3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,029	<b>Applicant(s)</b> HEADS ET AL.	
	<b>Examiner</b> Andre' L. Jackson	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/7/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

*DETAILED ACTION*

*Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

*Drawings*

The drawings are objected to under 37 CFR 1.83(a) because they fail to show a clear representation of applicant's cap or cover as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Further, The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the phrase “ an elongate member which is sufficiently flexible to allow it to be stored and transported in a roll” in independent claims 1 and 4 respectively, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2004-162312 to Kobari. Kobari [embodiment shown in figure 3] discloses a sliding door rail cover [12] having a configuration to fit about a projecting track [11] of a sliding door, the cap having a configuration to fit over the track of the sliding door [Fig. 3], the cap comprising an elongate member [10] which is sufficiently flexible to allow it to be stored and transported in a roll.

As to claim 3, the rail cover is formed with an elongate channel [inner arc recess corresponding and fitting an upper part of the projecting track as seen in figure 3] adapted to accommodate an upper part [mushroom shaped upper part of the projecting track as seen in figure 3] of the track.

Claims 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobari. Kobari [embodiment shown in figure 3] discloses a sliding door sill comprising a floor [horizontal base below element 11], a track [11] extending upwardly from the floor and adapted to support a sliding door [15] which rides along the track, the track having an upper portion [mushroom shaped upper part of the track as seen in figure 3], and a cap [12] which extends over the upper portion of the track, the cap comprising an elongate member [10] which is sufficiently flexible to allow it to be stored and transported in a roll.

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As to claim 5, wherein the cap has an elongate channel [inner arc recess corresponding and fitting the upper portion of the track as seen in figure 3] adapted to accommodate an upper part of the track.

As to claim 6, wherein the track has a wider top portion [mushroom shaped upper part] and a narrower stem [vertical thin support below and integral the upper part] portion.

As to claim 7, wherein the cap extends over the track such that the outer end portions of the cap abuts or is closely spaced from the floor of the sill from which the track extends.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobari in view of USPN 6,945,364 to Wesson et al. Kobari disclosure states that the rail cover is formed of a stainless steel material and not a cap or rail cover formed of plastic as set forth in applicant's claim. Wesson et al teaches a door assembly [20] including a sliding door [22] operative to move along a track member [26] between open and close positions. The sliding door is supported by rollers [28], which facilitate the movement of the sliding door. Further, a resilient track member cover [30] is provided and attached to one side of the track member. The resilient track member is of a flexible material in the family of any known plastics, and is preferably a polyurethane or polyester elastomer material.

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The resilient track member cover eliminates a need to apply a non-corrosive application to the track member, and eliminates a need to apply a coating around the outer periphery of the rollers, since the resilient track member cover offers excellent durability, low maintenance cost, wear resistance and low friction resistance. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the rail cover of Kobari to incorporate the door assembly as taught by Wesson et al to provide an enhanced rail cover affording excellent durability, low maintenance cost, excellent wear resistance and low friction resistance characteristics which makes for a longer lasting and smoother sliding door system.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In particular, Mathis discloses a cover track system defining a cover track, which is seated on a rail or track, the cover track fits about the rail or track and is sufficiently flexible to cover a pool.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067.

The examiner can normally be reached on Mon. - Fri. (10 am - 6:30 pm).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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